

EGREMONT PLANNING BOARD
MINUTES, August 26, 2020

Call to order: 10:11 AM

Present via Zoom: Jared Kelly, Eddie Regendahl, Nick Keene, Matthew Bersani, Donna Gordon

Citizens in Attendance: Marj Wexler, Lucinda Vermeulen, Mary McGurn, Joan Goodkind

It was announced that the meeting is video and audio recorded

Form A's: None

Citizen's Time: None

Minutes: The July 23, 2020, & August 4, 2020 minutes were accepted as amended.

Mail: None

ADU Bylaw Public Hearing Update: The Board discussed the legal notice announcing the Public Hearing on 9/17/2020. As a point of procedure, Town Counsel suggested the notice reference citizen petition(s) as well as Planning Board version of proposed Bylaw to ensure compliance with MA General law.

Work on Draft Marijuana Bylaw:

The Board explored the notion of folding the Adult Recreational Marijuana Bylaw into the town's existing Medical Marijuana Bylaw. After some discussion, it appeared that governance related to medical marijuana is more restrictive and that medical and adult recreational marijuana have been treated as separate entities regulated differently on state and municipal levels. Mary McGurn stated the CCC is currently looking to alter regulations on medical marijuana which could change the legal landscape down the road. Given that the models are currently separate, we used the current Egremont Medical Marijuana Bylaw to jumpstart a discussion on setbacks for recreational marijuana establishments (ME's) and best practices to measure those.

The question arose of whether the PB is permitted to regulate residential setbacks on marijuana retail establishments (MR's). Town Counsel will be consulted. We gleaned from CCC regulations that under state law, a marijuana retail establishment may not be located within 500 feet of a pre-existing public or private school providing education in kindergarten or any grades 1-12. An ordinance or bylaw to reduce that buffer zone is permitted. In reviewing CCC regulations, this appears to be the only regulated "Buffer Zone" specifically cited. In regard to the allowance of other municipal regulations, The CCC guidance states "The law allows, but does not require, municipalities to pass bylaws and ordinances governing the "time, place" and manner" of marijuana establishments... such bylaws may not be "unreasonably impracticable". The PB's

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current draft Marijuana Bylaw (section 3.2) states that all other MEs (outside of MR) shall not be located within 200 feet of any existing residential use properties. This raised the question of whether a 200 feet setback would make it impractical for a potential MR to open in the village of Egremont as it would be difficult to provide a 200 feet setback from a residence.

The discussion of setbacks moved into the license category of Cultivation where there was unanimous agreement that setbacks are warranted. Our current marijuana draft Bylaw, (Section 5.13) indicates that outdoor cultivation shall have a minimum setback of 125 feet from any property line to the fence surrounding the marijuana plants. This is in addition to the proposed 200 feet required in section 3.2.

Mary McGurn offered an excerpt from the Town of Hatfield, MA proposed zoning amendment addressing setbacks for indoor/outdoor cultivation which included 500 feet of any preexisting residential use not located on the same lot with the marijuana establishment and within 300 feet of preexisting residential use in the industrial, light industrial and commercial districts..." The Board found the language useful and Mary will send members a copy of the article for review.

The Board discussed modifying language in our draft Bylaw, section 3.2 regarding the 200 feet requirement and adopting the language in section 5.13 regarding outdoor cultivation as well as redefining for measurement purposes "property line" as "building envelope" to be defined as being inclusive of building(s), grow field, fencing, etc. The question was raised of whether setbacks should be equal on all sides of a residence.

Staying with the topic of Cultivation, the Board explored ideas around capping tiers, allowing all tiers and regulating through setbacks; (larger setbacks for higher tiers) and/or regulating acreage restrictions in order to allow farmers with larger acreage the opportunity to farm at the highest tier available. The Board would like to get citizen feedback.

The Board discussed informal ways of receiving citizen feedback on the proposed Bylaw. The idea of first having a public meeting, in addition to a Public Hearing was discussed.

Next Meeting: Friday, September 11, 2020, 10:00 AM

Meeting Adjourned: 11:58 AM

Respectfully submitted,
Donna B. Gordon, Clerk
September 7, 2020

